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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 002745

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SUBJECT: STAGE IS SET FOR ACTION ON IRAQ'S ELECTION LAW

REF: BAGHDAD 2658

Classified By: Acting Political Counselor William V. Roebuck for reason
s 1.4(b) and (d).

Summary

¶1. (C) After weeks of speculation, Iraq's Council of Representatives (COR) performed two of three required readings of an election law October 4-6. The chair of the legal committee minimally satisfied this procedural requirement by reading a brief amendment to the 2005 election law which party blocs had approved. The draft amendment addresses key constitutional concerns, but does not set rules for voting by open- or closed-lists or designate who may vote in Kirkuk. The COR is set to take up discussion of these issues when its members return to session on October 13. At the same time, the October 5 interrogation of the Chairman of the Independent High Electoral Commission (IHEC) has left Iraq's key electoral institution vulnerable to paralysis caused by possible removal of one or more members of its Board of Commissioners. As if the COR was not under enough pressure, by mid-week Ayatollah Sistani added his influential voice to the public debate, reiterating his support for an open list voting system. After a few months of build up, we are approaching a political climax this week. We are making it clear to key interlocutors at the most senior levels that the COR needs to proceed with great care to avoid miscalculating as it exercises its oversight and legislative functions. END SUMMARY.

Election Amendment Process Begins

¶2. (C) Amid speculation and uncertainty, the Council of Representatives (COR) was finally able October 4 to complete a first reading the election law. The "reading" was undertaken by Baha al-Ariji, chair of the COR Legal Committee (Sadrism Trend), who minimally satisfied the procedural requirement by reading a brief amendment to the 2005 election law. The amendment called for an increase in the size of the Parliament from 275 members to 311, in line with Article 49 of the constitution. The amendment stated that 15 percent of these seats should be compensatory seats, or nation-wide "at large" seats. It also called for voting in multiple districts matched to the boundaries of Iraq's 18 provinces, with seats allocated on the basis of the latest population estimates used by the food ration card system. The amendment did not address whether voting should be done by open or closed lists, and it did not address voting rules for Kirkuk.

¶3. (C) During the second reading on October 6, al-Ariji explained that the Legal Committee had included in the amendment language only those issues that had already been agreed by the political blocs. After the second reading, Speaker Ayad al-Sammarraie allowed each of the bloc leaders

one minute to speak about important additional items to include in possible amendments to the law. COR members agreed that discussion of the election law will continue when the COR resumes its session on October 13. While it is possible that a third reading, directly followed by a vote, could take place by the COR's self-imposed deadline of October 15, few expect the remaining obstacles to be resolved that quickly (Reftel). (Note: Speaker Sammarraie told Ambassador October 11 that he expected the COR to pass the election law by October 19. End Note.)

IHEC Chairman Faces the COR

¶4. (C) In between the readings of the amendment, on October 5 IHEC Chairman Faraj al-Haydari was finally called before Q5 IHEC Chairman Faraj al-Haydari was finally called before the COR for a formal interrogation that lasted four hours. Kareem al-Yaqobi, the Fadhila MP who initiated the request, led the interrogation. The questions ranged from technical queries related to procedures used in the January 2009 provincial elections, to accusations that IHEC intentionally burned certain voting forms, to allegations of financial corruption. Chairman Haydari (a Kurd aligned with KDP) accompanied by fellow IHEC Commissioner Kareem Al-Tamimi seemed to speak with difficulty; his voice wavered and he did not answer some of the questions. At the end of the interrogation, al-Yaqobi announced that he had found Haydari's responses unsatisfactory. He read a draft resolution that called for dismissing all members of IHEC for committing legal, administrative, and financial violations and sought to create a new electoral commission. MP Haider

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al-Abadi (Da'wa party) protested, and pointed to the COR by-laws that require a seven day waiting period before a vote of no confidence. Speaker Sammarraie concurred, ruling the action out of order, and noting that the COR would take up the matter again after October 12.

¶5. (C) Meanwhile, the interrogation has shaken the fragile confidence that IHEC enjoyed after its successful administration of the provincial elections in January and the Kurdistan Regional elections in July. UNAMI and USAID technical advisors embedded at IHEC report a near-paralysis of operations as the Commission awaits its fate. In an attempt to mitigate the criticisms that IHEC suffered during the interrogation, IHEC hosted a press conference on October 18. Chairman Haydari, Chief Electoral Officer Hamdia Hussaini (Da'wa), Commissioner Kasim al-Aboodi (ISCI), and Commissioner Saad Mahmood (Tawafuq) hosted the event. They discussed IHEC's ongoing preparations for the coming elections, and underlined the need for an election law. Haydari stated that IHEC is currently prepared to administer an open- or closed-list system. After the media event, Haydari invited participants to view the files from the provincial elections that IHEC was alleged to have destroyed.

MPs Not Optimistic

¶6. (C) Following the procedural progress in the COR this week, MPs predicted that Kirkuk, the credibility of IHEC, and the ongoing debate over open and closed lists remain obstacles to the approval of an election law. Regarding the Kirkuk issue, Legal Committee member Iman al-Assidi (ISCI) told poloff October 5 that Kirkuk's Sunni Arab/Turkomen representatives agreed to allow a first reading of the law on October 4 solely because party bloc leaders promised they could propose their amendment relating to Kirkuk. Assidi predicted to poloff that Kirkuk's Kurdish MPs would follow suit with a competing amendment. Turkomen MP Fryad Omar Abdullah told us October 5 that Turkomen prefer that Kirkuk not be included in the national election rather than be

"included inaccurately." Abdullah indicated that Turkomen and Arabs oppose allowing some 300,000 Kurdish voters registered in Kirkuk since 2004 to vote in the upcoming election, even if Arabs and Turkomen receive a negotiated quota of additional seats.

¶7. (C) Regarding open versus closed lists, Saleh al-Mutlaq (Sunni-affiliated Iraqi National Dialogue Front) warned POL M/C October 7 that despite public statements in support of open lists, COR members "will tweak the system to de facto closed list in order to get reelected." As for IHEC, he characterized the institution as Islamist-dominated, and asked for outside help to restore "independence and balance" to the electoral body. (Note: After the IHEC interrogation on October 5, poloff observed that the Kurdish Alliance, Da'wa and their allies in the State of Law Alliance are not in favor of a vote of no confidence on certain IHEC commissioners. Some of these contacts remarked that this effort seemed to be an attempt to delay the national elections planned for January. However, Da'wa bloc leader Ali al-Adeeb told POL M/C October September 30 that while they don't support a shake-up at IHEC before national elections, most parties were frustrated with the organization. End Note.)

Sistani Reiterates Support for Open Lists

¶8. (C) As if the COR was not under enough pressure, by midweek Ayatollah Ali al-Sistani added his influential voice to the public debate on national elections. Following a private meeting with UNAMI SRSG Ad Melkert on October 4, Sistani's office issued a public statement reiterating the Ayatollah's support for an open list system because open lists would attract a high turnout for the elections. Some misinterpreted his words to mean that Sistani would endorse a boycott of the elections if open lists were not used. In an effort to correct that misunderstanding, the story remained in the press all week, with additional clarifications offered by Sistani's conduits. Hamid al-Khaffaf, Sistani's spokesperson in Beirut, explained that Sistani fears that citizens will not be encouraged to participate in elections if the closed list system is used. Sistani has called on Iraq's political leaders to respond to what he perceives to be the people's desire for open list elections. Khaffaf added, "It is the duty of the religious authority to clearly warn against anything it believes will have negative repercussions on the democratic process." By October 10, the press was reporting hundreds of peaceful protesters taking to the streets, with Iraqis demonstrating in support of open

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list elections; the largest of these events took place across southern Iraq, where Sistani's support is the strongest. (Note: Contacts report that many of the protests were organized by Shia Interior Minister Jawad al-Bolani's Iraqi Constitutional Party. End Note.)

Comment

¶9. (C) The confluence of the election law amendment, the IHEC interrogation, and the public pressure for an open list system illustrates the complexity and intensity of the election debate underway across Iraq. While our contacts regularly confirm that elections will take place on time in January 2010, few can predict the precise path to that event. We continue to deliver the message that we seek credible, legitimate elections, Iraqi-led and managed, on time in January 2010. We also emphasize our support for IHEC, discouraging those who seek to remove any of the commissioners at this time because we assess that this could severely disrupt IHEC's ability to administer elections by

January. After a few months of build up, we are approaching a political climax in Iraq, with the COR this week set to vote on an election law and to make a critical decision about whether to remove IHEC commissioners, a decision we believe is fraught with political risks. UNAMI issued a statement on October 11 that warns, "significant changes to the institutional set-up in IHEC would severely disrupt the ongoing electoral preparations to the point that it would not be possible to hold credible elections until a considerably later date." We are making it crystal clear to key interlocutors at the most senior levels that the COR needs to exercise great care and not miscalculate. We are also relying on key diplomatic allies to echo our message that the situation is too delicate and the timing too tight to allow for removing IHEC commissioners or delaying any further in passing an election law.

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